

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS,

Plaintiff,

Civil Action No. 04-30126-MAP

v.

CARDIAC SCIENCE, INC.,

Defendant

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT
UNDER FED. R. CIV. P. 56

COMES NOW Defendant Cardiac Science, Inc., and hereby moves the Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, for Summary Judgment on every claim brought against it by Plaintiff, Donald C. Hutchins ("Plaintiff") and for Summary Judgment on every Declaratory Judgment claim brought by Cardiac Science against Plaintiff on grounds that:

1. Plaintiff's claim of copyright infringement must fail because the undisputed facts show that Cardiac Science has license rights to the asserted copyrights.
2. Plaintiff's claim of patent infringement must fail because the undisputed facts show that Cardiac Science has license rights to the asserted patent.
3. Plaintiff's abuse of process claim must fail because the undisputed facts do not support the claim.
4. Plaintiff's tortious interference with contract claim must fail because the undisputed facts do not support the claim.

5. Declaratory Judgment that Cardiac Science's exclusive license to Plaintiff's asserted copyrights and patent is valid and in full force and effect.

6. Declaratory Judgment that Cardiac Science does not infringe Plaintiff's asserted copyrights.

7. Declaratory Judgment that Cardiac Science does not infringe any claims of U.S. Patent No. RE34,800.

8. Declaratory Judgment that Cardiac Science is not in breach of the June 1, 1994 License Agreement because Cardiac Science has met its obligations and further, Cardiac Science has not received a written notice of breach as required by the June 1, 1994 License Agreement.

Defendants' motion is supported by the Memorandum of Law in Support of Defendant's Motion for Summary Judgment, the documents attached thereto, and all of the files, records and proceedings in this matter.

Respectfully submitted,

CARDIAC SCIENCE, INC.

By:


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